

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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PATRICIA DeSANTIS,)
individually, and as Successor)
in Interest for RICHARD)
DeSANTIS, deceased, and as)
Guardian Ad Litem for DANI)
DeSANTIS, a minor,)

Plaintiffs,)

vs.)

No. C-07 3386 JSW

CITY OF SANTA ROSA, JERRY)
SOARES, RICHARD, TRAVIS)
MENKE, PATRICIA MANN, and DOES)
1 through 25, inclusive,)

Defendants.)

DEPOSITION OF DANIEL JONES

June 10, 2008

REPORTED BY: A. MAGGI SAUNDERS,

C.S.R. No. 2755



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1 Q. And there was no reason that any of these
2 items that were on your belt were unavailable to you
3 during the course of these -- during the course of this
4 evening, right?

5 A. Correct.

6 Q. They were all working, to your knowledge,
7 and available?

8 A. Yes.

9 Q. Do you remember precisely what the nature
10 of the call was when you first heard it?

11 A. It was either a -- Well, it was "Shots
12 fired inside the house," either regarding a "5150," or
13 some kind of "domestic violence dispute".

14 Q. When did you become aware that it was a
15 call regarding mental illness?

16 A. When Officer Menke was giving commands to
17 Mr. DeSantis, we all had our guns pointed toward him,
18 because we didn't know if he was armed or not, and his
19 wife was standing behind him, in the line of fire.

20 So, I had yelled at her to get back in
21 the house.

22 And she said that he was -- something to
23 the effect of he had a mental illness and was "in
24 crisis".

25 Q. From what you observed of Mr. DeSantis'

1 A. Yes.

2 Q. Is that part of your training?

3 A. I've heard it used during training.

4 Q. Okay. And what does that mean to you?

5 A. That means exactly what it means: If you
6 don't see the hands, there could be something in those
7 hands that can be used to hurt you, or the hands
8 themselves can be used to hurt you.

9 Q. Okay. So, I take it, you were focused on
10 his hands.

11 A. Well, I checked his hands, yes --

12 Q. Okay.

13 A. -- I was focused about everything around
14 him, including him.

15 Q. Okay. When you first saw Mr. DeSantis,
16 could you describe his hands?

17 A. To the best of my knowledge, they were
18 down at his side.

19 Q. Was there anything in his hands?

20 A. I didn't see anything, no.

21 Q. Okay. How long after you arrived and saw
22 Mr. DeSantis did you hear the first command?

23 A. That I don't know what the time frame was
24 from -- It was relatively close to when I first got to
25 the corner of the house.

1 A. I don't remember hearing her say that.

2 Q. And I have forgotten what you said -- I
3 already asked you and you said -- but did she tell you
4 first that he was -- that it was a mental-illness
5 situation, and then you told her to go in the house?

6 A. No. When I told her to go into the house,
7 she yelled, "He has mental illness; he's in-crisis,"
8 something to that effect.

9 Q. Okay. And did you hear her say anything
10 prior to that?

11 A. No, I did not.

12 Q. Okay. And when she went back into the
13 house, did you hear her yelling anything out of the --
14 from inside of the house?

15 A. I didn't hear Mrs. DeSantis after I had
16 told her to go back in the house.

17 Q. Okay. Did Mr. DeSantis ever say anything?

18 A. No, I did not hear him say anything.

19 Q. By the time Menke gave his first command,
20 had all officers positioned themselves?

21 A. As far as Sergeant Soares, I'm not sure if
22 he had arrived on-scene prior to Officer Menke telling
23 him to put his hands up; but, by the time he was
24 ordering him to the ground, Sergeant Soares had showed
25 up.

1 there time for you to assess the effect of the
2 non-lethal shot?

3 A. Yes, sir, there was.

4 Q. Was Mr. DeSantis -- Strike that.

5 Let me ask you another question:

6 Do you know what sympath- -- Have you ever
7 heard the term "sympathetic fire"?

8 A. Yes, I have.

9 Q. What is that?

10 A. From my understanding, what "sympathetic
11 fire" is is when one -- someone shoots, and then
12 another person, as like a knee-jerk reaction, I guess,
13 the best I can explain it, shoots, pulls their trigger,
14 and shoots their gun.

15 Q. And what are you trained to do relative to
16 "sympathetic fire"? That's a bad question.

17 As a result of this, of your training
18 about sympathetic fire, are you trained in how to deal
19 with that?

20 A. I'm not --

21 MR. SAFIRE: Bad question again. You're
22 right.

23 MS. FOWLER: That's vague and ambiguous.

24 MR. SAFIRE: Q. Okay. Let me try again.

25 As part of your training, do you learn

1 about sympathetic fire?

2 A. Yes.

3 Q. Okay. And what are you trained to do
4 relative to it?

5 A. It's -- I -- From my understanding, it's
6 kind of an individual thing, as far as reaction by an
7 individual.

8 During our range training, you know, you
9 hear lots of gunshots go off, and you just have to
10 have self-control to try to keep from pulling the
11 trigger, when you don't intend to.

12 Q. I'm not getting through here. Let me try
13 again.

14 As part of your training, are you told to
15 be aware of sympathetic fire, and try not to do it?

16 A. Yes.

17 Q. Okay. That's what I was trying to get at.
18 Okay.

19 And it's kind of a natural reaction; and,
20 I take it, you are trained to be aware of it, and not
21 immediately fire just because you hear another gunshot.

22 A. Yes, from my understanding.

23 Q. Okay. Was Mr. DeSantis able to advance
24 towards Officers Menke and Mann after being hit by the
25 non-lethal projectile?

1 Q. And I think I've asked you this, but
2 please bear with me:

3 When he -- When the non-lethal shot was
4 fired, I think you said he was about 30 to 40 feet
5 away, is that correct, from Officers Menke and Mann?

6 MS. FOWLER: I'm going to object that it
7 misstates his testimony.

8 MR. SAFIRE: Q. Yeah, maybe so.

9 How far away was he when the non-lethal
10 shot was fired?

11 A. Maybe 20 to 30.

12 Q. Okay.

13 A. I think it originally -- I think the 30 to
14 40 came from where he was at the sprinter's stance.

15 Q. I see. Okay.

16 And how about, after the non-lethal shot
17 was fired, and the lethal shot was fired, was he
18 still about 20 feet away?

19 A. He had taken a couple steps, so that could
20 be accurate.

21 Q. Okay. And you never saw him reach into
22 his waistband or into his pockets, correct?

23 A. Yes.

24 Q. We discussed your rifle that you got out
25 of your car. What kind of rifle is that?

1 A. The lighting was good.

2 Q. Okay. Do you know what the lighting
3 source was?

4 A. I believe they were all the typical
5 outside-lights type floodlights.

6 Q. Okay. Do you know if any headlights were
7 on from any vehicles?

8 A. I don't remember there being any.

9 Q. And how about any spotlights coming from
10 vehicles?

11 A. Again, I don't remember there being any.

12 Q. Okay. When you say you could see his rear
13 waistline, was that when he was in the push-up
14 position?

15 A. I could see it most clearly when he was
16 actually laying flat on the ground.

17 Q. Okay. When he was on the bottom part --

18 A. Yes.

19 Q. -- of the push-up position?

20 A. Yes.

21 Q. Okay. And about how many different
22 occasions do you recall seeing his rear waistline?

23 A. That, I don't know. It was more than
24 twice, I know, but I don't know the exact number.

25 Q. Okay. And you saw no object protruding

STATE OF CALIFORNIA)
) ss.
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CERTIFICATE OF REPORTER

I, A. MAGGI SAUNDERS, a Certified Shorthand Reporter in and for the State of California, duly appointed and licensed to administer oaths and so forth, do hereby certify:

That the witness named in the foregoing deposition was by me duly sworn to tell the truth, the whole truth and nothing but the truth;

That the deposition was reported by me, a Certified Shorthand Reporter and disinterested person, and thereafter transcribed into typewriting under my direction;

That if the deposition has not been signed by the time of trial, a reasonable opportunity having been given the witness to do so, signature has been waived in accordance with stipulation between counsel.

IN WITNESS WHEREOF, I have hereunto set my hand and subscribed my signature this 24th day of June, 2008.

A. Maggi Saunders
A. MAGGI SAUNDERS, C.S.R. No. 2755,
Certified Shorthand Reporter,
In and For the State of California

